

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Public Safety and Homeland Security)	
Bureau Seeks Comment on Petitions)	PS Docket No. 06-229
For Waiver To Deploy 700 MHz)	
Public Safety Broadband Networks)	
)	

To: The Commission

COMMENTS OF HARRIS CORPORATION

This Comment is submitted on behalf of Harris Corporation (“Harris”) before the Federal Communications Commission (“Commission”) in response to a Public Notice¹ issued by the Public Safety and Homeland Security Bureau seeking comment on three Petitions for Waiver² for deployment of 700 MHz public safety broadband networks (hereinafter “PSBN”). Harris is encouraged by the Commission’s efforts to ensure that as waivers are granted, requirements are put in place to ensure that interoperability is achieved in the 700 MHz public safety broadband spectrum. Harris believes that the Commission can continue to grant Petitions for Waiver to deploy PSBNs on a case by case basis while still ensuring nationwide network interoperability.

As part of the effort to ensure nationwide PSBN interoperability, Harris encourages the Commission to maintain its geographic coordination requirements for overlapping waiver

¹ Public Safety and Homeland Security Bureau Seeks Comment on Petitions for Waiver to Deploy 700 MHz Public Safety Broadband Networks, *Public Notice*, DA 10-1748, (rel. Dec. 1, 2010).

² See Miami-Dade County, *Request for Waiver – Expedited Action Requested* (filed Sept. 21, 2010); City of Indianapolis and Marion County, *Request for Waiver* (filed Oct. 10, 2010); State of West Virginia, *Request for Waiver* (filed Nov. 9, 2010).

entities and with states. The Commission should also issue a *Public Notice* in response to Harris' *Request to Refresh the Record*³ on the role of state governments in coordinating the deployment of PSBNs. In order to encourage interoperability across mission critical communications within a jurisdiction, the Commission should modify its interpretation of Section 337 in the *Waiver Order*⁴ to permit network access to entities that act in support of public safety's core mission (*i.e.*, to protect the safety of life, health or property). Providing non-public safety government and quasi-government organizations access to public safety broadband spectrum on a secondary basis, at the discretion of public safety, has been previously found by the Commission to be permitted under Section 337. In order to ensure that the public safety broadband spectrum is being utilized in accordance with Section 337, the Commission could require permissible secondary users to enter into a "Sharing Agreement" with public safety De Facto Licensees.

Harris is an international communications and information technology company serving government and commercial markets in more than 150 countries. Harris is a leading technology developer and manufacturer of mission critical wireless communications for the public safety communications market with more than 500 critical communications systems deployed world-wide. As a pioneer in the development of Internet Protocol ("IP") based networks for private radio and broadband applications, Harris supplies industry-leading brands such as VIDA Broadband™, EDACS®, OpenSky®, NetworkFirst™, and Provoice™ and the newly released Harris GR-100. Harris is also an active member of numerous standards and technical

³ Harris Corporation Request to Refresh the Record, PS Docket No. 06-229 (filed December 9, 2010) ("*Request to Refresh the Record*").

⁴ Requests for Waiver of Various Petitioners to allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks, *Order*, PS Docket 06-229, 25 Rcd. 5145, 5155, ¶ 34 (rel. May 12, 2010).

committees including the TR-8 Mobile and Personal Private Radio Committee of the Telecommunications Industry Association.

Harris is committed to providing public safety with solutions to achieving true nationwide interoperability through combining its leading Internet Protocol (“IP”) based technology and in-depth knowledge of mission critical communications requirements. To meet the emerging needs of public safety for mobile broadband services Harris has developed VIDA Broadband LTE, a complete 700 MHz broadband network based on the 3GPP LTE cellular technology. VIDA Broadband LTE is a wireless broadband network designed exclusively for public safety, and uses the same fourth generation cellular network architecture and over-the-air technology, Long Term Evolution, as commercial cellular networks. In addition, Harris now offers first responders full-spectrum multiband products for joint public safety operations on the local, state, and federal levels: the Harris Unity™ XG-100 and RF-1033M.

I. THE COMMISSION CAN CONTINUE TO GRANT PETITIONS FOR WAIVER WHILE ENSURING NETWORK INTEROPERABILITY THROUGH THE GEOGRAPHIC COORDINATION PROCESS ESTABLISHED IN THE WAIVER ORDER.

The Commission should continue to evaluate, accept, and grant Petitions for Waiver to deploy in the 700 MHz public safety broadband spectrum and should not restrict the submission of new Petitions for Waiver based solely on jurisdictional size. Petitions for Waiver should be granted on a case by case basis. At this time Harris does not believe that the number of waivers should be limited or restricted. The number of Petitions for Waiver being filed has significantly decreased over the course of the past year. The potential benefit of continuing to grant waivers far outweighs the burden placed on the Commission to continue evaluating them.

Harris supports the Commission’s geographic certification coordination process established by the *Waiver Order* for coordinating overlapping geographic areas and with states.⁵ In order to ensure network interoperability the Commission must continue to promote coordination between waiver grantees, especially in areas where waiver entities geographically overlap—such as between counties or cities and states. Harris agrees that requiring geographic coordination to take place on the state-level is the most efficient way to ensure 700 MHz public safety deployments are coordinated under the waiver process. However, jurisdictions smaller than states should continue to be eligible to apply for and be granted waivers for early deployment so long as they demonstrate that coordination with states will take place. Even though the Commission has stated a preference for state-level waivers,⁶ the Commission should not preclude other local or regional public safety entities with the motivation and funding to deploy a network from submitting a Petition for Waiver.

The Commission should also refresh the record regarding the role of state governments under both final PSBN rules and interim waiver rules—notably under state-level waivers.⁷ As stated in Harris’ *Request to Refresh the Record*, “clarifying how states and local jurisdictions within states are expected to collaborate is especially important to promote competition in the build-out of public safety broadband systems and encourage public safety broadband systems that are both interoperable and tailored to the unique operational needs of local public safety entities.”⁸ Further defining the precise role of state governments in the deployment process will

⁵ *Id.* at 5161-5163, ¶ 49-53.

⁶ “We conclude that waivers for early deployment should meet certain criteria for geographic scope of the proposed deployment. For several reasons, we believe that states provide the most appropriate geographic size for consideration of waiver relief.” *Id.* at 5151, ¶ 50.

⁷ See *Request to Refresh the Record*, *supra* note 3.

⁸ *Id.* at pg. 4.

help ensure that both requirements are set in place to ensure interoperability and the unique needs of individual public safety entities are taken into consideration.

II. PERMITTING ENTITIES THAT SUPPORT PUBLIC SAFETY’S CORE MISSION ACCESS TO 700 MHZ PUBLIC SAFETY BROADBAND NETWORKS IS PERMISSIBLE UNDER SECTION 337 OF THE COMMUNICATIONS ACT OF 1934.

Providing waiver grantees the discretion to permit access to their networks on a secondary basis to entities that support the core mission of public safety is consistent with Section 337 of the Communications Act of 1934.⁹ Harris recommends that the Commission modify its interpretation of network access adopted under the *Waiver Order*¹⁰ limiting access to PSBNs and implement a more flexible interpretation of Section 337. As previously noted in this proceeding by Harris,¹¹ a flexible interpretation of Section 337 is consistent with the Commission’s findings in previous proceedings including: (1) the *700 MHz Second Further Notice of Proposed Rulemaking*;¹² (2) the *700 MHz Second Report and Order*;¹³ (3) the 4.9 GHz

⁹ 47 U.S.C. § 337 (2006); *see also* 47 C.F.R. § 90.523 (2009).

¹⁰ *Waiver Order*, *supra* note 6, at 5155, ¶ 34.

¹¹ *See* Comments of Harris Corporation, PS Docket No. 06-229, pgs. 5-12 (filed October 18, 2010).

¹² *See* Service rules for the 698-746, 747-762 and 777-792 MHz Bands; Implementing a Nationwide, Broadband Interoperable Public Safety Network in the 700 MHz Band, *Second Further Notice of Proposed Rulemaking*, WT Docket No. 06-150, PS Docket No. 06-229, 23 FCC Rcd. 8047, 8061 ¶¶ 30-31 (rel. May 14, 2008) (noting that uses that do not principally involve public safety services may be permissible so long as the principal purpose of the spectrum is to protect the safety of life, health or property).

¹³ “We disagree with commenters who assert that the Act prohibits us from permitting commercial operations on a secondary basis in the 700 MHz public safety spectrum to facilitate the build out of a public safety network. These commenters construe Section 337(a)(1), which directs the Commission to allocate 24 megahertz of the 700 MHz spectrum “for public safety services,” as requiring such spectrum to be used *exclusively* for public safety services. The statutory provision, however, includes no such limiting language. It requires neither that the 24 megahertz at issue be allocated exclusively for public safety services nor that it be used only for such services. Moreover, Section 337(a)(1) confers upon the Commission the authority to allocate 24 megahertz for public safety services ‘according to the terms and conditions established by the Commission.’ We construe this phrase as affording us broad discretion to impose conditions on the use of this spectrum to effectuate its optimal use by public safety, and the condition at issue here serves just such a purpose.” Service rules for the 698-746, 747-762 and 777-792 MHz Bands; Implementing a Nationwide, Broadband Interoperable Public Safety Network in the 700 MHz Band, *Second Report and Order*, WT Docket No. 06-150, PS Docket No. 06-229, 22 FCC Rcd. 15289, 15438-15439, ¶ 419 (“*Second Report and Order*”).

Memorandum Opinion and Order and Third Report and Order;¹⁴ and (4) the National Broadband Plan.¹⁵

The Commission’s current interpretation of Section 337 under the *Waiver Order* would limit the establishment of beneficial partnerships between public safety and other non-public safety government and quasi-government entities who have similar mission critical communication needs and requirements. Access to PSBNs by entities that would advance the core mission of public safety, such as transportation entities and critical infrastructure providers, offer waiver grantees the opportunity to obtain additional funding support and reduce overall deployment costs through leveraging existing infrastructure. These are Commission goals that were advocated for in both the *700 MHz Second Report and Order*¹⁶ and the National Broadband Plan.¹⁷ Promoting collaborative deployment efforts that utilize shared resources while still advancing the public interest should be encouraged by the Commission in the waiver process.¹⁸

¹⁴ In the 4.9 GHz spectrum band the Commission based its flexible spectrum rules that permitted entities not eligible for their own license access to the spectrum on a secondary basis. The Commission based its spectrum access rules on the definition of public safety services laid out under Section 337(f) of the Communications Act. *See In the Matter of The 4.9 GHz Band Transferred from Federal Government Use, Memorandum Opinion and Order and Third Report and Order*, WT Docket No. 00-32 18 FCC Rcd. 9152, 9158-9163, ¶¶ 15-25 (rel. Apr. 23, 2010).

¹⁵ “Public safety licensees should also be able to allow non-public safety partners to use their spectrum on a secondary basis—that can be preempted—through leasing or similar mechanisms. Partners could include critical infrastructure users such as utilities connecting to the Smart Grid.” Report to Congress, *A National Broadband Plan for Our Future*, Federal Communications Commission, pgs. 314-315 (rel. Mar. 16, 2009) (“*National Broadband Plan*”).

¹⁶ “Providing the D Block licensee with the opportunity to offer commercial services on this spectrum, on a secondary basis, is an integral part of a viable framework for enabling the 700 MHz Public/Private Partnership to finance the construction of a nationwide, interoperable public safety broadband network.” *Second Report and Order*, *supra* note 13, at 15437, ¶ 416.

¹⁷ The Commission noted in the National Broadband Plan that providing critical infrastructure users, such as utilities, secondary spectrum access to the 700 MHz public safety broadband spectrum “serves the added purpose of allowing the public safety licensee(s) to leverage infrastructures that utilities might currently have. Therefore, access to utilities’ towers and other structures may be part of any secondary usage program.” *National Broadband Plan*, *supra* note 15, pg. 328, fn 7.

¹⁸ *See e.g.*, Las Vegas Metropolitan Police Department, Washoe County Sheriff’s Department, the Washoe Regional Communications System, the Nevada Department of Transportation, and NV Energy, representing the State of

The Commission could ensure that the public safety broadband spectrum is being utilized in accordance with Section 337 by requiring public safety De Facto Licensees to enter into a “Sharing Agreement” with any permissible secondary users—as is similarly required in the 4.9 GHz band¹⁹ and under the current 700 MHz rules.²⁰ The Commission could require that the Sharing Agreement be filed with the Commission and Public Safety Broadband Licensee within a reasonable time period following the effective date of the Sharing Agreement. The Sharing Agreement should not be subject to prior Commission approval, but its filing would provide the Commission with the necessary oversight to ensure that the public safety broadband spectrum is being used in accordance with Section 337. A Sharing Agreement could include information such as:

- Governance Structure
- Network Access Terms and Conditions
- Identification of Use Cases by Secondary Users
- Intra and Inter Jurisdictional Geographic Coordination Requirements
- Interference Mitigation Plans
- Compliance with the Public Safety Spectrum Trust De Facto License

III. CONCLUSION.

For the reasons set forth above, Harris continues to support granting Petitions for Waiver to deploy PSBNs on a case by case basis. Harris also takes the following positions: (1) the Commission should refresh the record concerning the role of state governments with regards to both final PSBN rules and interim waiver rules; (2) the Commission should expand its interpretation of Section 337 established under the *Waiver Order* to permit secondary access to

Nevada 700 MHz Broadband Wireless Network (SONNet), *Request for Waiver – Expedited Action Requested* (filed May 13, 2010).

¹⁹ See 47 C.F.R. § 90.1410 and § 27.1310 (2009) (establishing the terms and conditions for the relationship between the Upper 700 MHz D Block licensee and the Public Safety Broadband Licensee).

²⁰ See 47 C.F.R. § 90.1203(b) (2009)(allowing the establishment of sharing agreements for use the 4.9 GHz band by non-public safety entities that operate in support of public safety).

non-public safety government and quasi government entities that advance the core mission of public safety; and (3) to ensure the public safety broadband spectrum is being used in compliance with Section 337 the Commission could require the establishment of a Sharing Agreement between permissible secondary users and public safety De Facto Licensees. Harris looks forward to working with both the Commission and the public safety community to deploy an interoperable nationwide PSBN.

Respectfully submitted,

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December 15, 2010